

PRESS RELEASE

Court Defers Ruling on Paint Manufacturers' Demand to Name 330,000 RI Properties with Lead Paint, Separate Liability from Damages & Sever 3rd Party Complaints in Lead Paint Lawsuit

Providence - Superior Court Associate Justice Michael Silverstein today deferred ruling on a request by the defendants in the lead paint lawsuit that the Attorney General identify each property in Rhode Island which contains lead paint and the name of every single one of the owners of the properties. To force the State to identify each property, estimated to be more than 331,000 housing units, is impossible, the Attorney General argued, and the State looked upon this as a tactic to stall the lawsuit. Defendants' own previous statements agreed that naming each property is scientifically impossible. The judge deferred a ruling until after further motions are argued.

In addition, the Court today deferred ruling on the State's request to bifurcate liability from remedy and to sever the third party complaints against property owners and the Rhode Island Housing and Mortgage Finance Corporation. The State asked the Court to divide the case so it can first show that the lead paint manufacturers are responsible for the public nuisance, and then to have the Court fashion an appropriate remedy based upon their responsibility to address the public health crisis of lead poisoning. The State also argued that it is unnecessary at this stage for the property owners to be involved in the litigation. The defendants argued that poorly maintained and deteriorating lead paint is the only hazard causing lead poisoning, not intact paint, and that property owners who allow paint to deteriorate are responsible.

Today's decision invites the State to legally challenge the defendants' affirmative defenses. The Court said in its ruling it wants to "sharpen the legal issues," and invites the State to file appropriate motions refuting the defendants' defenses. The Court has set a deadline of September 30, 2001 for motions to be filed.

In the only definitive ruling issued today, the Court agreed with the Attorney General's argument that the State should not be required to answer a series of 121 requests for admissions made by Sherwin Williams, one of the companies the State has filed suit against. The State argued that the request was premature and some of the questions were inappropriate.

After reviewing today's Order, Attorney General Sheldon Whitehouse said, "We are pleased with the Court's invitation for the State to file papers challenging the paint manufacturers' defenses and sharpen the legal issues. This provides us an early opportunity to present the Court with a roadmap for this case to be tried quickly, economically, and fairly to all parties concerned. We will continue to fight to bring this case to trial in the lifetime of Rhode Island's children who have been poisoned by lead paint. The defendants have taken no responsibility for the lead poisoning occurring in Rhode Island, and I will fight not to allow them to stall the case and face their day of reckoning."

In October 1999, Attorney General Sheldon Whitehouse filed the first and only lawsuit on behalf of a state against the manufacturers of lead paint in order to address the most severe environmental hazard facing Rhode Island's children. The Court recently denied the defendants' motions to dismiss the lawsuit, allowing the case to proceed toward trial.